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Pekka Pollari

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EXAMINER

JOSEPH, TONYA S

ART UNIT

PAPER NUMBER

3628

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,271

Applicant(s)

POLLARI, PEKKA

Examiner

Tonya Joseph

Art Unit

3628

~ The MAILING DATE of this communication appears on the cover sheet with the correspondence address ~
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06/24/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09/26/2003 and 09/01/2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Step 18; Fig. 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Art Unit: 3628

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Reference number 22; Fig. 2 and Reference number 81; Fig. 8. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

5. The drawings are objected to because: BRM API has no number designation as the other interior components of the invention. Corrected drawing sheets in compliance

Art Unit: 3628

with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities: Reference number 22 in Fig. 2 and Reference number 81 in Fig. 8 are not mentioned in the disclosure. Step 18 is mentioned in the disclosure and not shown in the drawings. BRM API is mentioned throughout the disclosure, but is not labeled in the drawings.

Appropriate correction is required.

7. Claims 2-13 and 17 are objected to because of the following informalities:

Art Unit: 3628

The recitation, "the method as in" promotes doubt as to whether the claims are truly dependent on the number recited or if they are related in ideology. To alleviate doubt, dependency should be recited as; "The method of, *{insert appropriate claim no.}*" Appropriate correction is required.

8. Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitation recited is the same as the limitation of claim 1 lines 6-10.

9. Claim 6 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitation recited is the same as the limitation of claim 1 lines 6-10.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claims 1 and 14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

12. Claim 1 recites the limitation, a step (27) in which, if the BRM (12) determines that the user has registered the application (11), the BRM (12) then signals to the

Art Unit: 3628

application (11) that the user has registered the application (11). The use of open-ended conditional language would not render the entire claim useful, tangible or concrete. The language presented only makes allowances for when the BRM determines that the user has registered the application. There is no allowance made in the event that the BRM determines that the user has not registered the application. As the claim is currently presented, it could be possible that there would be no action by the program. In this case, there would be no concrete, tangible or useful outcome, due to this lack of information, this would constitute non-statutory material.

13. Claim 14 recites the limitation, means (27) for signaling to the application (11) that the user has registered the application (11) in case the BRM (12) determines that the user has registered the application. The use of open-ended conditional language would not render the entire claim useful, tangible or concrete. The language presented only makes allowances for when the BRM determines that the user has registered the application. There is no allowance made in the event that the BRM determines that the user has not registered the application. As the claim is currently presented, it could be possible that there would be no action by the program. In this case, there would be no concrete, tangible or useful outcome, due to this lack of information this would constitute non-statutory material.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1-10, 14-16 and 18 are rejected under 35 U.S.C. 102(b) as being Edelman by U.S. Pre-Grant Publication No. 2002/0029347 A1.

16. As per Claim 1, Edelman teaches a method enabling billing (pg. 6 para. 95 lines 2-3, Examiner is interpreting purchasing a software license as billing) a user for use of an application hosted by a wireless terminal (see pg. 4 para. 62 lines 1-4, Examiner is interpreting a cellular phone to be a wireless terminal); subscribed to an operator network (see pg. 4 para. 58 lines 1-4, 10-12); characterized by a step in which, in response to the indication by the user that the application is to be executed, a business relationship manager (BRM) (12) also hosted by the wireless terminal (11) refers to one or more data stores (12a,13a) hosting information on user registration of applications to determine whether the user has registered the application (see pg. 4 para. 60, Examiner is interpreting a client program to be a business relationship manager). Examiner is further interpreting the licensing medium as a data store. Although the licensing medium of Edelman is a removable smart card, it can also be embodied internally (see pg. 2 para 62). Edelman further teaches and a step in which, if the BRM (12) determines that

Art Unit: 3628

the user has registered the application (11), the BRM (12) then signals to the application (11) that the user has registered the application (11) (see pg. 4 para. 59 lines 3-10 pg. 4 and para. 65 lines 1-6). Examiner is interpreting the client program *embedded* in electronic data to be the same as the recited "application", in essence a BRM embedded in electronic data. Although the client program can be separately installed, it can also be embedded within executable electronic data, i.e. an application (see pg. 4 para. 59 lines 6-10).

17. As per Claim 2, Edelman teaches the method of Claim 1 as described above. Edelman further teaches a step (26) in which, before a first use of the application (11), the user registers the application (11) with a user information server(13) via the BRM (12) (see pg. 5 para. 75 and pg. 4 para. 67 lines 1-5, Examiner is interpreting the registration authority to be a user information server).

18. As per Claim 3, Edelman teaches the method of Claim 2 as described above. Edelman further teaches, wherein signaling between the BRM and the user information server is according to SIP (session initiation protocol) or XML (extensible markup language) over HTTP (hypertext transfer protocol) or over HTTPS (secure HTTP). (see pg. 4 para. 67, lines 8-10 and para 68 lines 3-6, Examiner is interpreting signaling from the client program to the registration authority using the internet, as, signaling between the BRM and the user information over HTTP).

19. As per Claim 4, Edelman teaches the method of Claim 2 as described above. Edelman further teaches, before registering for use of the application (11), the user elects in a dialogue with the BRM (12) a lease/buy plan by which the user is billed for

Art Unit: 3628

use of the application (11) (see pg. 6 para 95, Examiner is interpreting connecting to the registration authority as a dialogue with the BRM) Examiner is further interpreting a software license being purchased per day as a lease/buy plan.

20. As per Claim 5, Edelman teaches the method of claim 1 as described above. Edelman further teaches, wherein to determine whether the user has registered the application (11), the BRM (12) refers to a data store (12a) hosted by the wireless terminal (10) (see pg. 4 para. 60, Examiner is interpreting a licensing medium as a data store hosted by the wireless terminal).

21. As per Claim 6, Edelman teaches the method of claim 1 as described above. Edelman further teaches, wherein to determine whether the user has registered the application (11), the BRM (12) refers to a data store (13a) maintained by a user information server (13) of the operator network (18) (see pg. 5, para. 77 lines 5-8).

22. As per Claim 7, Edelman teaches the method of claim 1 as described above. Edelman further teaches, a step (33) in which, in response to a prompt by the user to de-register the application (11), the BRM (12) signals a de-register message to a user information server (13) that the application is to be de-registered for the user (see pg. 6 para. 96 lines 3-5, Examiner is interpreting the removal program connecting to the registration authority as being done through the BRM); and a step (34) in which the user information server (13) acknowledges the de-register message and de-registers the application (11) for the user (see pg. 6 para. 97, lines 1-3).

23. As per Claim 8, Edelman teaches the method of claim 1 as described above. Edelman further teaches, wherein the application (11) is assigned an identifier common

Art Unit: 3628

to all copies of the application (11) (see pg. 5 para. 80, lines 1-3); and used as an identifier for the application (11) in the data stores (12a 13a) indicating whether the user has registered the application (11) (see pg. 5 para 82, Examiner is interpreting software as an application).

24. As per Claim 9, Edelman teaches the method of claim 1 as described. Edelman further teaches, wherein the user is able to elect various plans for paying for use of the application (see pg. 6 para. 89 and para. 90 lines 1-5, Examiner is interpreting renewing the software agreement as a user election).

25. As per Claim 10, Edelman teaches the method of claim 9. Edelman further teaches, wherein the various plans include a plan in which the user is billed monthly for use of the application (see pg. 6 para. 89, lines 3-5 and para. 90 lines 1-5): Examiner is interpreting a renewable monthly license as a monthly bill for the use of the application.

26. As per Claim 14, Edelman teaches, a wireless terminal (10) (see pg. 4 para 62 lines 1-4, Examiner is interpreting a cellular phone to be a wireless terminal); including a business relationship manager (BRM) (12) component (see pg. 4 para 60, Examiner is interpreting a client program to be a business relationship manager); for enabling billing a user for use of an application (see pg. 6 para. 95 lines 2-3, Examiner is interpreting purchasing a software license as billing) (11); hosted by the wireless terminal (10) subscribed to an operator network (18) (see pg. 4 para. 58 lines 10-12); the wireless terminal (10) characterized in that the BRM (12) comprises; means (25b 25c), responsive to an indication by the user that the application (11) is to be executed, for referring to at least either a local data store (12a) or a data store (13a) hosted by the

Art Unit: 3628

operator network (18) to determine whether the user has registered the application (11) (see pg. 4 para. 60, Examiner is interpreting a client program to be a business relationship manager). Examiner is further interpreting the licensing medium as a data store. Although the licensing medium of Edelman is a removable smart card, it can also be embodied internally (see pg. 2 para 62); means (27) for signaling to the application (11) that the user has registered the application (11) in case the BRM (12) determines that the user has registered the application (11) (see pg. 4 para. 59 lines 3-10 pg. 4 and para 65 lines 1-6). Examiner is interpreting the client program *embedded* in electronic data to be the same as the recited "application", in essence a BRM embedded in electronic data. Although the client program can be separately installed, it can also be embedded within executable electronic data, i.e. an application (see pg. 4 para. 59 lines 6-10).

27. As per Claim 15, Edelman teaches a wireless terminal; (see pg. 4 para 62 lines 1-4, Examiner is interpreting a cellular phone to be a wireless terminal); characterized by: an application (11), responsive to a signal to begin execution, (see pg. 4 para. 59 lines 3-10 and para 60). Examiner is interpreting the client program *embedded* in electronic data to be the same as the recited "application", in essence a BRM embedded in electronic data. Although the client program can be separately installed, it can also be embedded within executable electronic data, i.e. an application (see pg. 4 para. 59 lines 6-10); and further responsive to a signal indicating registration is in place (see para. 65 lines 1-6); a business relationship manager (BRM) (12) having a BRM application programming interface (API), (see pg. 4 para. 60, Examiner is interpreting a

Art Unit: 3628

client program to be a business relationship manager. An API, being an interface that a computer system, library or application provides in order to allow requests for services to be made of it by other computer programs, and/or to allow data to be exchanged between them, would inherently be included in the client program to allow communication); responsive to the signal to confirm registration, for referring to at least one data store (12a 13a) (see pg. 4 para. 60, Examiner is interpreting the client program, embodied in an application, accessing information subsequent to being prompted by a user, as responsiveness to a signal to confirm registration. Examiner is further interpreting the licensing medium as a data store. Although the licensing medium of Edelman is a removable smart card, it can also be embodied internally (see pg. 2 para 62); to determine whether the user has registered the application (11); and, if the BRM (12) determines that the user has registered the application (11), for signaling to the application (11) that registration is in place (see pg.4 para 65 lines 1-6).

28. As per Claim 16, Edelman teaches, a system enabling billing a user of a wireless terminal (10) (see pg. 4 para 62 lines 1-4, Examiner is interpreting a cellular phone to be a wireless terminal); for use of an application (11) hosted by the terminal (10), comprising; the wireless terminal (10) and an operator network (18) to which the user of the wireless terminal (10) is subscribed (see pg. 4 para. 58 lines 10-12); the operator network (18) including a user information server (13) (see pg. 4 para. 67 lines 1-5, Examiner is interpreting the registration authority implemented as a server on a network, to be an operator network including user information server); characterized in that: a BRM (12) included in the wireless terminal (10) is responsive to a signal from the

Art Unit: 3628

application (11) to confirm registration (see pg. 4 para. 60, Examiner is interpreting the client program, embodied in an application, accessing information subsequent to being prompted by a user, as responsiveness to a signal to confirm registration. Examiner is further interpreting the client program *embedded* in electronic data to be the same as the recited "application", in essence a BRM embedded in electronic data). Although the client program can be separately installed, it can also be embedded within executable electronic data, i.e. an application (see pg. 4 para. 59 lines 6-10); and signals a request to the operator network (18) to determine whether the user is registered to use the application (11); (see pg. 5 para. 77) and the user information server (13), in response to the request to determine whether the user is registered to use the application (11), refers to a data store (13a) hosted by the operator network (18) to determine whether the user is registered to use the application (11) (see pg. 5 para 77, lines 5-8).

29. As per Claim 18, Edelman teaches, A computer program product comprising: a computer readable storage structure embodying computer program code thereon for execution by a computer processor in a wireless terminal (10), said computer program product for enabling billing a user for use of an application (11) hosted by the wireless terminal (10) subscribed to an operator network (18), said computer program code characterized in that it includes instructions for performing the steps of the method of claim 1. A method performed on a computer system is read by that system. Thus the method of claim 1 being performed on a system as recited, would be on a computer readable medium.

Claim Rejections - 35 USC § 103

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. Claims 11-12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edelman (Reference A of the attached PTO-892) in view of Samjani, "General Packet Radio Service {GPRS}" (Reference U of the attached PTO-892).

32. As per Claim 11, Edelman teaches the method of claim 1 as described above. Edelman further teaches, a step (53) in which with each request for a network service, the BRM (12) appends to the request an identifier indicating the user and an identifier indicating the application (11);(see pg 4 para. 67, lines 8-10 and pg. 5 para. 80 lines 1-3); Edelman does not explicitly teach, a step in which a support node (15) of the operator network (18) counts packets bearing the identifier indicating the user and the identifier indicating the application. Samjani teaches, packet counts are passed to a charging gateway that generates call detail records. These records are sent to the billing system. It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to expand the method of Edelman with Samjani to collect charging information from GPRS nodes with the applicable identifier to prepare it for submission to a billing system.

Art Unit: 3628

33. As per Claim 12, Edelman in view of Samjani, teaches the method of claim 11 as described above. Samjani further teaches, wherein the support node (15) is a gateway GPRS (general packet radio service) support node (GGSN). GPRS uses the radio resources for allocation of channels to the user. A GPRS is not a circuit-switched oriented network. Hence, it involves more efficient usage of the available bandwidth (see pg. 14 col. 1, para. 7, lines 1-8); It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to expand the method of Edelman to use a GPRS support node to allow efficient handling of available bandwidth, as taught in Samjani, pg. 14 col. 2, para. 1 lines 1-4.

34. As per Claim 17, Edelman teaches the system of claim 16 as described above. Edelman teaches in case of an application using network resources, for each request for a network service, the BRM (12) appends to the request a user identifier and an application identifier) (see pg 4 para. 67, lines 8-10 and pg. 5 para. 80 lines 1-3); Edelman does not explicitly teach a gateway GPRS (general packet radio service) support node (GGSN) (15), and the GGSN, by monitoring packets received from users, counts packets bearing the user identifier and application identifier. Samjani teaches, packet counts are passed to a charging gateway that generates call detail records. Samjani further teaches, GPRS uses the radio resources for allocation of channels to the user. We know that GPRS is not a circuit-switched oriented network. Hence, it involves more efficient usage of the available bandwidth (see pg. 14 col. 1, para. 7, lines 1-8); It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to expand the method of Edelman to collect charging information from

Art Unit: 3628

GPRS nodes with the applicable identifier to prepare it for submission to a billing system and use a GPRS support node to allow efficient handling of available bandwidth, as taught in Samjani, pg. 14 col. 2, para. 1 lines 1-4.

35. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edelman (Reference A of the attached PTO-892) in view of Official Notice.

36. As per Claim 13, Edelman teaches the method of claim 1 as described above. Edelman further teaches wherein the application (11) is provided to the operator network (18) by an application provider, and operator network (18) bills the user for use of the application (11) (see pg. 4 para 56 and para 67 lines 1-5). Edelman does not explicitly teach, compensating the application provider in a way predetermined to be commensurate with the use of the application (11) by the user. Examiner takes Official Notice that it is old and well known in the art of software application development to compensate vendors with a predetermined royalty with use of their product. It would have been prima facie obvious to one of ordinary skill in the art to expand the method of Edelman with Official Notice to provide payment to a vendor for use or sale of their application.

37. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tonya Joseph whose telephone number is 571-270-1361. The examiner can normally be reached on Mon-Fri 7:30am-5:00pm First Fridays off.

Art Unit: 3628

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Nolan can be reached on 571 272 0847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tonya Joseph
Examiner
Art Unit 3628



PATRICK J. NOLAN, PH.D.
SUPERVISORY PATENT EXAMINER

11/9/06